UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 December 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This is a Final Office Action in response to the applicant's communication filed on

December 03, 2008.

2.   Claims 1-36 have been examined and are pending.

Response to Arguments

3.   Applicant's arguments filed December 03, 2008 have been fully considered but they are

not persuasive.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a

general allegation that the claims define a patentable invention without specifically pointing out

how the language of the claims patentably distinguishes them from the references.

In response to applicant's arguments against the references individually, one cannot show

nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re*

Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicant argues and alleges that the Examiner has failed to address various ones of

the claim recitation, and misinterprets other of the claim recitation and particularly the following

ones "pushed content", "pulled content", "download content", "service loading content" and

"authenticate service loading content". However the examiner gave the broadest reasonable

interpretation to the claim language in light of the applicant's disclosure and also as admitted by

the applicant in the background of the invention as they are well known to one of ordinary skill

in the art. See the following section for applicant's submission of the claim languages as a well

known technologies and practices in the art:

[Applicant's disclosure: 0005] One particular service feature currently available for

communicating information is a "push" feature (also known as a "notification" feature or "alert"

feature). In a typical **client/server model, a client requests a service or information from a

server**, which then responds in transmitting information to the client. This is generally referred

to as **"pull"** technology, where the client pulls the information from the server. For example,

entry of a Uniform Resource Locator (URL) at a client device which is then dispatched to the

server to retrieve the associated information is a pull transaction.

[Applicant's disclosure: 0006] In contrast, **"push"** technology generally refers to **a means

to transmit information to one or more devices without a previous user action**. Thus, there

is no explicit request from the client before the server transmits its information, and therefore

push technology essentially includes **server-initiated transactions**. Push technologies can be

used in connection with various protocols and communication technologies. For example, some

representative push technologies include Short Message Service (SMS), Wireless Application

Protocol (WAP) Push, Multimedia Messaging Service (MMS), Session Initiation Protocol (SIP),

as well as others.

[Applicant's disclosure: 0009] As a solution to the drawback of requiring end-user

interaction to receive pushed content, **service loading technologies**, such as that defined by

WAP, can be utilized by a client to download content without end-user interaction. In

accordance with WAP, service loading allows clients to receive content without user

intervention. In this regard, a push initiator pushes service loading content to a client, which

upon receipt of the service loading content, automatically downloads (i.e., "pulls"), from an origin server, content identified by the service loading content. For more information on the **WAP service loading architecture**, see, for example, Wireless Application Protocol Forum, Service Loading, WAP-168-ServiceLoad-20010731-a, the contents of which are incorporated herein by reference in its entirety.

The applicant also argues that "Puhl does not teach or suggest a **terminal receiving service loading content**, and in response thereto and without user interaction, **authenticating the service loading content** and **pulling download content identified by the service loading content**. That is, nowhere does Puhl disclose a terminal receiving service loading content that identifies download content, and also has a digital signature that is authenticated before the terminal pulls the download content".

The examiner disagrees with the applicant's argument and analysis because the alleged features are admitted by the applicant and very well known to one of ordinary skill in the art [applicant's disclosure 0005-0006 and 0009] and also disclosed by Puhl prior art in (Pul; Figures 3: 200-230]. Puhl discloses license certificate to down load to the user's phone and requested by user. The phone validates the license certificate and once validated the phone either downloads the content (product purchased). Each certificate is to bind or associate the content or software product to a particular name or content identifier (Puhl; colun 5: lines 33-45). However Puhl does not disclose "authenticating the service loading content and pulling the downloading content independent of interaction for a user of the terminal" which amounts to "pushing" the

content. However these features are disclosed by Chou as shown in the office action which is (column 2: lines 10-24; column 3: lines 30-50; column 6: lines 21-67; column 7: lines 1-7).

Therefore, for at least the reasons given above, the applicant's argument and analysis are not persuasive to overcome the prior art in record and place the independent claims in condition for allowance including their corresponding dependent claims.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-4, 10-13, 19-22 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puhl et al. (hereinafter referred to as Puhl, US 6,223,291 B1) in view of Chou et al. (hereinafter referred to as Chou, US Pat. No.: 7,346,168 B2) and further in view of Moshir et al. (hereinafter referred to as Moshir, US Pub. No.: 2004/0003266 A1)

As per claim 1, 10, 19 and 28:

Puhl discloses a system, a method, a computer readable medium, an apparatus respectively for downloading pushed content comprising; a terminal comprising a processor configured to receive service download content and has a digital signature (The processor is

implicitly stated by the prior art). Wherein the processor is configured to authenticate the service loading content based upon the digital signature, and if the service loading content is authenticated, pulling the download content to the terminal (col. 13, lines 30-46; col. 13, lines 47-67) and (col. 8, lines 2-4, lines 10-12; Examiner's consideration and patentable weight for clam languages and terms for "pushed content", "pulled content", "download content", "service loading content" are given as they are known to one of ordinary skill in the art and also admitted by the applicant's in the background section of the disclosure- paragraph 0005-0006 and 0009).

Puhl does not explicitly disclose authenticating the service loading content and pulling the downloading content independent of interaction for a user of the terminal. Chou, in analogous art, however, discloses authenticating the service loading content and pulling the downloading content independent of interaction for a user of the terminal (column 2: lines 10-24; column 3: lines 30-50; column 6: lines 21-67; column 7: lines 1-7). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the system disclosed by Puhl to include authenticating the service loading content and pulling the downloading content independent of interaction for a user of the terminal. This modification would have been obvious because a person having ordinary skill in the art would have been motivated by the desire to provide for the secure delivery of converged services to users of wireless devices in a wireless environment as suggested by Chou in (column 1: lines 63-67; column 2: lines 1-7).

Puhl and Chou does not explicitly disclose wherein the processor is configured to determine if an interruption occurs in pulling the download content such that the terminal receives a portion but less than all of the download content, and if an interruption occurs in receiving the content, recover the download content including receiving a remaining portion of the download content without also receiving at least part of the previously received portion. Moshir, in analogous art, however, disclose wherein the processor is configured to determine if an interruption occurs in pulling the download content such that the terminal receives a portion but less than all of the download content, and if an interruption occurs in receiving the content, recover the download content including receiving a remaining portion of the download content without also receiving at least part of the previously received portion (0064; 0164; 0180). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the system disclosed by Puhl and Chou to include wherein the processor is configured to determine if an interruption occurs in pulling the download content such that the terminal receives a portion but less than all of the download content, and if an interruption occurs in receiving the content, recover the download content including receiving a remaining portion of the download content without also receiving at least part of the previously received portion. This modification would have been obvious because a person having ordinary skill in the art would have been motivated by the desire to provide software deployment, software installation, software updating, and file distribution based on software and patch finger printing across multiple operating systems and devices, across a network as suggested by Moshir in (019-0020).

As per claim 2, 11, 20 and 29:

Puhl discloses the processor of the terminal is configured to verify the digital signature with a public key to thereby authenticate the service loading content (col. 13, lines 30-40).

As per claim 3, 12, 21 and 30:

Puhl discloses a push initiator configured to digitally sign the service loading content with a private key associated with the public key and thereafter transmitting the service loading content to the terminal (col. 3, lines 11-14).

As per claim 4, 13, 22 and 31:

Puhl discloses an origin server associated with the download content, wherein the service loading content identifies the origin server associated with the download content (see para. 0009 of the background of the applicant invention); the processor of the terminal is configured to send a request for the download content to the origin server when the service loading content is authenticated (col. 13, lines 30-46) wherein the processor is configured to receive the download content from the origin server in response to the request (col. 13, lines 47- 49).

6.   Claims 5, 14, 23 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puhl, Chou and Moshir in view of Chakravorty et al. (US 2004/0176080 A1).

As per claim 5, 14, 23 and 32:

Puhl and Landsman disclose except that the processor of the terminal is configured to operate a download agent, wherein the download agent is configured to receive a download descriptor and thereafter receiving the download content.

Chakravorty discloses a download descriptor and thereafter receiving the download content (see abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chakravorty to include the use of a download descriptor in order to provide the user/device instructions on how to download content, such that the user/device may know where content resides and how to configure one system to receive content.

7.   Claim 6-7, 15-16, 24-25 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puhl, Chou and Moshir in view of Chakravorty et al. (US 200410176080 A1) as applied to claim 5 above, and further in view of Singh et al. (US 200310147369 A1).

As per claim 6-7, 15-16, 24-25 and 33-34:

Puhl, Landsman and Chakravorty discloses all the limitation of claim 6-7, 15-16, 24-25 and 33-34 except that wherein determining if an interruption occurs determining if an interrupt occurs in receiving the plurality of data packets such that the download agent receives less than the plurality of data packets of the download content, and if an interruption occurs in receiving the plurality of data packets, wherein recovering the downloaded content comprises recovering the download content such that the download agent receives the plurality of data packets.

Singh discloses wherein determining if an interruption occurs determining if an interrupt occurs in receiving the plurality of data packets such that the download agent receives less than the plurality of data packets of the download content, and if an interruption occurs in receiving the plurality of data packets, wherein recovering the downloaded content comprises recovering the download content such that the download agent receives the plurality of data packets (para. 0354, lines 1-7; para 0357, lines 1-9). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Puhl to include the use of an agent for detection an interrupt during content downloading in order to ensure wireless device receive all data packets that the device is supposed to receive from the distributor, as wireless connectivity at times are not reliable (para. 0355).

8.   Claim 8-9, 17-18, 26-27 and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puhl, Chou and Moshir in view of Singh et al. (US 2003/0147369 A1).

Puhl and Landsman disclose all the limitation of claims 8-9, 17-18 and 26-27 except for the terminal is configured to operate a download agent configured to receive the plurality of data

packets and receiving at least one information packet regarding at least one group of at least on

data packet and determining if an interruption occurs while receiving the packets, if an

interruption occurs recover the missing packets the was not previously received (para. 0354,

lines 1-7; para 0357, lines 1-9).

Singh discloses the download agent is configured to determine if an interrupt occurs in

receiving the plurality of data packets such that the download agent receives less than the

plurality of data packets of the download content, and if an interruption occurs in receiving the

plurality of data packets, recovering the download content such that the download agent receives

the plurality of data packets (para. 0354, lines 1-7; para 0357, lines 1-9).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Puhl and Landsman to include the use of an agent for detection an interrupt

during content downloading in order to ensure wireless device receive all data packets that the

device is supposed to receive, from the distributor, as wireless connectivity at times are not

reliable (para. 0355).

Conclusion

9.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. See the notice of reference cited in form PTO-892 for additional prior art.

10.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Contact Information

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Techane J. Gergiso whose telephone number is (571) 272-3784

and fax number is (571) 273-3784. The examiner can normally be reached on 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization

where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Techane J. Gergiso/

Examiner, Art Unit 2437

/Emmanuel L. Moise/

Supervisory Patent Examiner, Art Unit 2437